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In re Application of
HASHIMOTO, Tatsuya et al
Application No.: 09/463,565
PCT No.: PCT/JP99/02828
Int. Filing Date: 27 May 1999
Priority Date: 28 May 1998
Attorney's Docket No.: MAT-7886US
For: BATTERY PLATE AND BATTERY

DECISION ON PETITION
TO WITHDRAW HOLDING OF
ABANDONMENT

This decision is in response to applicants' "Response to Notice of Abandonment" filed on 28 June 2001. Applicants' response is treated as a petition to withdraw the holding of abandonment in the above-captioned application. No petition fee is required.

BACKGROUND

On 24 March 2000, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge required by 37 CFR 1.492(e) must be provided.

On 21 April 2000, applicants purportedly submitted an executed declaration, an assignment and a request for recordation along two checks to pay the required surcharge and assignment recordation fee. Applicants also authorized any additional fees to be charged to counsel's Deposit Account No. 18-0350.

On 13 June 2001, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909) stating that the above-captioned application was abandoned because applicants failed to respond to Form PCT/DO/EO/905 within the time period set.

On 28 June 2000, applicants filed the instant petition which was accompanied by, *inter alia*, copies of several documents purportedly filed 21 April 2000 including an executed declaration, an assignment, and a stamped postcard receipt, along with a copy of Express Mail label No. EL492448204US.

DISCUSSION

MPEP § 503 lists procedures to ensure receipt of any paper filed in the PTO. Applicants must enclose a self-addressed postcard identifying all of the papers filed. The PTO will stamp the receipt date on the card and place it on the outgoing mail. The

identifying data on the card must clearly identify the paper for which receipt is requested. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO.

In this case, applicants have provided a copy of the date-stamped filing receipt for the documents submitted 21 April 2000. The receipt clearly identifies the application by the name of the applicants, attorney docket number, and title. The filing receipt declares in a box labeled "DOCUMENTS" that the following documents were received: "1595 Assign, 1390(2), Dec/POA, Notification of Missing requirements, Checks (2), Express Cert." The postcard receipt is stamped "520 Rec'd PCT/PTO 21 APR 2000" across its face. This description is sufficient to prove that a declaration was filed on 21 April 2000. In addition, applicants included a copy of Express Mail label No. EL492448204US which has a "Date In" of "4 21 00" and is stamped as received by the USPS in Southeastern PA. on "APR 21 2000."

Accordingly, applicants have provided *prima facie* evidence that the declaration was received by the PTO on 21 April 2000.

However, applicants have not proven that the PTO cashed the \$130.00 check for the surcharge fee, or the \$40.00 check for the assignment filed on 21 April 2000. In fact, a review of PTO financial records for the above-identified application reveal that neither check was cashed. Nevertheless, the \$130.00 surcharge fee and the \$40.00 assignment fee have been charged to Deposit Account No. 18-0350 as authorized.

DECISION

For the reasons above, applicants' petition to withdraw the holding of abandonment is **GRANTED**.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 27 May 1999, under 35 U.S.C. 363, and a 35 U.S.C. 371(c) date of **21 April 2000**.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

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